

4/10/92

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No.
	)	91 CV578-JLF
NL INDUSTRIES, INC., et al.	)	
	)	
Defendants,	)	
	)	
and	)	
	)	
CITY OF GRANITE CITY, ILLINOIS,	)	
LAFAYETTE H. HOCHULI, and	)	
DANIEL M. McDOWELL	)	
	)	
Intervenor-Defendants.	)	

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DEFENDANTS AT&T'S RESPONSES TO PLAINTIFFS' SUPERCEDING  
REQUESTS FOR ADMISSION

COMES NOW AT&T by its attorneys, and answers the United States Superseding Requests for Admissions as follows:

OBJECTION

The United States claims that all answers to its Request for Admission are due within 10 days of receipt of the requests. Rule 36 of the Federal Rules of Civil Procedure provides for 30 days. At the February 25, 1992 status conference, the Defendants agreed to answer previously promulgated discovery relevant to Phase I as identified in the Case Management Order within 10 days. Only requests numbered 1, 2, 3, 4, 5, 7, 8, 32, 38, 39, and 48 somewhat resemble previously propounded discovery. Despite the burdensome nature of answering 48 requests within 10 days, AT&T herein gives answer to all requests of the United States.

EPA Region 5 Records Ctr.



258704

## RESPONSES

1. Admit that Answering Defendant received a general notice letter and request for information relating to the site from U.S. EPA dated November 28, 1989.

RESPONSE: Admit.

2. Admit that the document attached as Exhibit A is a true and accurate copy of the November 28, 1989 letter (excluding attachments) referred to in Request for Admission 1.

RESPONSE: AT&T admits that the letter attached to the Plaintiff's Requests to Admit is a letter identical to that received by AT&T except for the exclusion of a company name and address on the attached letter.

3. Admit that Answering Defendant knew that there would be a meeting in Chicago on December 18, 1989 relating to the Site, which meeting was announced in the November 28, 1989 letter referred to in Request for Admission 1.

RESPONSE: Admitted.

4. Admit Answering Defendant attended a meeting with U.S. EPA relating to the Site in Chicago on December 18, 1989.

RESPONSE: Admitted.

5. Admit that a timetable for future Site events, including the anticipated date of the release of U.S. EPA's proposed remedial action plan for the Site and public comment period on the proposed plan was discussed at the December 18, 1989 meeting.

RESPONSE: AT&T admits that there were general discussions at this meeting concerning future activities at the site and that some tentative dates were mentioned.

6. Admit that representatives of U.S. EPA stated at the December 18, 1989 meeting that U.S. EPA expected to release its proposed plan for remedial action at the Site on January 10, 1990.

RESPONSE: Denied.

7. Admit that NL Industries, Inc. performed a Remedial Investigation and Feasibility Study for the Site ("RI/FS") between 1985 and 1990, subject to U.S. EPA oversight, pursuant to a 1985 Administrative Order on Consent.

RESPONSE: Denied.

8. Admit that on January 10, 1990, U.S. EPA approved the FS, with modifications.

RESPONSE: Denied.

9. Admit that U.S. EPA provided the FS for the Site to the public for review and comment in accordance with the National Contingency Plan ("NCP"), 40 C.F.R. §300.67(d) (1989).

RESPONSE: Denied.

10. Admit that U.S. EPA provided at least 21 calendar days for submission of comments on the FS for the Site, in accordance with the NCP, 40 C.F.R. §300.67(d) (1989).

RESPONSE: Denied.

11. Admit that the comment period referred to in the above Request for Admission preceded U.S. EPA's March 30, 1990 Record of Decision for the Site, in accordance with the NCP, 40 C.F.R. §200.67(d) (1989).

RESPONSE: Denied.

12. Admit U.S. EPA published a notice and brief description of the proposed plan in the Granite City Journal on Wednesday January 10, 1990.

RESPONSE: AT&T admits that the copy of the Granite City Journal attached to the Plaintiff's Requests for Admission is dated January 10, 1992 and gives information about the site but denies that it was aware of the publication of such information on or about January 10, 1990.

13. Admit that the document attached as Exhibit B is a true and accurate copy of the newspaper article published in the Granite City Journal on Wednesday, January 10, 1990.

RESPONSE: Admitted.

14. Admit U.S. EPA published a notice and brief description of the proposed plan in the Granite City Press-Record on Thursday, January 11, 1990.

RESPONSE: AT&T admits that the copy of the Granite City Press-Record attached to the Plaintiff's Requests for Admission is dated January 10, 1992 and gives information about the site but denies that it was aware of such information on or about January 10, 1990.

15. Admit that the document attached as Exhibit C is a true and accurate copy of the newspaper article published in the Granite City Press-Record on Thursday, January 11, 1990.

RESPONSE: Admitted.

16. Admit that the Administrative Record for the Site was made available to the public at the Granite City Library, 2001 Delmar Avenue, Granite City, Illinois 62040, in accordance with Section 113(k)(1) of CERCLA, 42 U.S.C. §9613(k)(1).

**RESPONSE:** Denied.

17. Admit that the Administrative Record for the Site was made available to the public at the Granite City Library, 2001 Delmar Avenue, Granite City, Illinois 62040, in accordance with Section 117(d) of CERCLA, 42 U.S.C. §9617(d).

**RESPONSE:** Denied.

18. Admit the U.S. EPA published notice and brief analysis of the proposed plan for the Site in accordance with Section 117(a)(1) of CERCLA, 42 U.S.C. §9617(a)(1).

**RESPONSE:** Denied.

19. Admit that U.S. EPA provided a brief analysis of the proposed plan for the Site and the alternative plans considered in accordance with Section 113(k)(2)(B)(i) of CERCLA, 42 U.S.C. §9613(k)(2)(B)(i).

**RESPONSE:** Denied.

20. Admit that U.S. EPA published notice and brief analysis of the proposed plan for the Site in accordance with the National Contingency Plan ("NCP"), 40 C.F.R. §300.430(f)(3)(i)(A) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

**RESPONSE:** Denied.

21. Admit that U.S. EPA published the notice and brief analysis of the proposed plan for the Site referred to in Request for Admission 20 in a major local newspaper of general circulation, in accordance with Section 117(d) of CERCLA, 42 U.S.C. §9617(d).

**RESPONSE:** Denied.

22. Admit that U.S. EPA published the notice and brief analysis of the proposed plan for the Site referred to in Request for Admission 20 in a major local newspaper of general circulation, in accordance with the NCP, 40 C.F.R. §300.430(f)(3)(i)(A) (1990), 55 Fed. Reg. 8,851 (March 8, 1990).

RESPONSE: Denied.

23. Admit that U.S. EPA made the proposed plan for the Site available to the public in accordance with Section 117(a)(1) of CERCLA, 42 U.S.C. §9617(a)(1).

RESPONSE: Denied.

24. Admit that U.S. EPA made the proposed plan for the Site available to the public in accordance with the NCP, 40 C.F.R. §300.430(f)(3)(i)(B) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

RESPONSE: Denied.

25. Admit that the notice and brief analysis referred to in Request for Admission 20 included sufficient information necessary to provide a reasonable explanation of the proposed plan and alternative proposals considered in accordance with Section 117(a) of CERCLA, 42 U.S.C. §9617(a).

RESPONSE: Denied.

26. Admit that U.S. EPA provided a reasonable opportunity for submission of written and oral comments on the proposed plan for the Site in accordance with Section 117(a)(2) of CERCLA, 42 U.S.C. 9617(a)(2)

RESPONSE: Denied.

27. Admit that U.S. EPA provided a reasonable opportunity to comment and provided information regarding the proposed plan for the Site in accordance with Section 113(k)(2)(B)(ii) of CERCLA, 42 § U.S.C. 9617(a)(2).

RESPONSE: Denied.

28. Admit that U.S. EPA provided a reasonable opportunity for submission of written and oral comments on the proposed plan and the supporting analysis and information located in the information repository, including the RI/FS for the Site in accordance with the NCP, 40 C.F.R. §300.430(f)(3)(i)(C) (1990), 55 Fed. Reg. 8551 (March 8, 1990).

RESPONSE: Denied.

29. Admit that the comment period referred to in the previous Request for Admission was not less than 30 days in accordance with the NCP, 40 C.F.R. §300.430(f)(3)(i)(C) (1990), 55 Fed. Reg. 8851 (March 8, 1990).

RESPONSE: Denied.

30. Admit that U.S. EPA provided an opportunity for a public meeting near the Site regarding the proposed plan for the Site in accordance with Section 117(a)(2) of CERCLA, 42 U.S.C. §9617(a)(2).

RESPONSE: Denied.

31. Admit that U.S. EPA satisfied Section 113(k)(2)(B)(iii) of CERCLA, 42 U.S.C. §9613(k)(2)(B)(iii), by providing the opportunity for a public meeting near the Site referred to in Request for Admission 30.

RESPONSE: Denied.

32. Admit Answering Defendant attended a public meeting on the proposed remedial action plan for the Site which meeting was held by U.S. EPA in Granite City on February 8, 1990.

RESPONSE: Denied.

33. Admit that the meeting referred to the previous Request for Admission satisfied U.S. EPA's duty for providing a meeting under Section 117(a)(2) of CERCLA, 42 U.S.C. 9617(a)(2).

RESPONSE: Denied.

34. Admit that U.S. EPA held a meeting in Chicago on March 9, 1990 concerning the proposed remedial action plan for the Site.

RESPONSE: AT&T admits a meeting was held on March 9, 1990 in Chicago at the request of NL Industries, but denies it was aware of such information on March 9, 1990.

35. Admit that the meeting referred to the previous Request for Admission satisfied U.S. EPA's duty for providing a meeting under Section 117(a)(2) of CERCLA, 42 U.S.C. 9617(a)(2).

RESPONSE: Denied.

36. Admit that Answering Defendant was invited to attend the meeting referred to in Request for Admission 34.

RESPONSE: Denied.

37. Admit that Answering Defendant, or a representative of the Answering Defendant, attended the meeting referred to in Request for Admission 34.

RESPONSE: Denied.

38. Admit that after consideration of the RI/FS and the public comments received on the proposed plan, and based upon



U.S. EPA's full administrative record, U.S. EPA selected a remedial action to address contamination at the Site.

**RESPONSE:** AT&T admits that U.S. EPA selected a remedial action and alleged it was necessary to address contamination at the site, but denies that such a remedial action could have been selected after consideration of the RI/FS and the public comments and based upon U.S. EPA's full administrative record.

39. Admit that on March 30, 1990, the U.S. EPA Regional Administrator for Region V signed a Record of Decision ("ROD") which sets forth U.S. EPA's decision on the remedy for the site.

**RESPONSE:** AT&T admits that there exists a Record of Decision of the referenced date but denies all other allegations of the request.

40. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) constitutes a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations, in accordance with Section 113(k)(2)(B)(iv).

**RESPONSE:** Denied.

41. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) provide a statement of the basis and purpose of the selected action for the Site in accordance with Section 113(k)(2)(B)(v).

**RESPONSE:** Denied.

42. Admit that the ROD and its attachments (Appendix A is the Responsiveness Summary and Appendix B is an additional discussion of the basis of U.S. EPA's Selection of a Lead Soil Clean-up Level for the NL/Taracorp Superfund Site) constitutes a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations, in accordance with Section 117(b).

**RESPONSE:** Denied.

43. Admit the selected remedy for the Site in the ROD is protective of public health.

**RESPONSE:** Denied.

44. Admit the selected remedy for the Site in the ROD is protective of public welfare.

**RESPONSE:** Denied.

45. Admit the selected remedy for the Site in the ROD is protective of the environment.

**RESPONSE:** Denied.

46. Admit the selected remedy for the Site in the ROD is cost effective.

**RESPONSE:** Denied.

47. Admit the selected remedy for the Site in the ROD is consistent with the NCP, 40 C.F.R. Part 300 (1989).

**RESPONSE:** Denied.

48. Admit the State of Illinois concurred in the remedial action for the Site set forth in the ROD.

RESPONSE: AT&T admits that a letter exists from the Illinois Environmental Protection Agency concurring in the remedial action set forth in the Record of Decision, but has no way of determining whether the letter is representative of the state of Illinois.

Submitted this 13th day of April, 1992.

Respectfully submitted,

COBURN, CROFT & PUTZELL

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Certificate of Service

I hereby certify that a copy of the foregoing was mailed, postage prepaid this 13 day of April, 1992 to:

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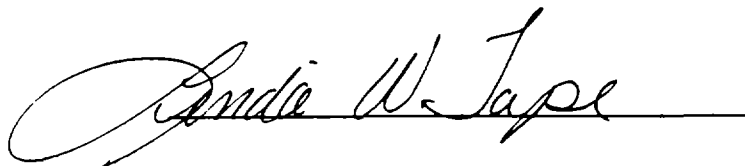
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A handwritten signature in cursive script, reading "Linda W. Tape", is written over a horizontal line.